FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1044 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

CORAM: A.S. OKA, J.
DATE : 2nd September, 2004.

P.C.:-

1. On 9th August, 2004 notice was issued to the Respondents. Shri Mujumdar appears for Respondent nos. 1 and 2. Affidavit of service has been filed by the Appellant stating therein that private notice has been served on the other Respondents.

2. The Appeal is filed by the Original Plaintiff. The challenge in the suit is to the action of the Respondent nos. 1 and 2 of issuing notice of demolition of the suit structure on the ground that the same is

unauthorised. The suit filed by the Appellant was dismissed by the Trial Court. The findings of the Trial Court have been confirmed by the Appellate court. The findings recorded by both the Courts below were essentially findings of facts which are neither perverse nor illegal. No interference is called for under Section 100 of the Code of Civil Procedure, 1908.

3. At this stage, on instructions from the Appellant the learned counsel for the Appellant states that the Appellant desires to apply for regularisation of the suit structure and an application in the behalf will be made to the Respondent nos.1 and 2 within a period of four weeks from today. He submits that till the application for regularisation is decided by the Respondents nos. 1 and 2, the suit structured may be protected.

4. Shri Mujumdar appearing for Respondent nos. 1 and 2 states that for want of instructions he is unable to make any specific statement so far as

the said prayer is concerned.

5. Considering the fact that the Appellant wants to apply for regularisation of the suit structure, some protection deserves to be granted to the Appellant.

6. The Second Appeal is dismissed with no orders as to costs. If the Applicant makes an application to the Respondent nos.1 and 2 for regularisation of the suit structure within a period of four weeks from today, the concerned authority of Respondent nos.1 and 2 will decide the same within a period of six weeks from the date of receipt of the application.

7. If the application for regularisation is made by the Appellant within a period of four weeks from today, the Respondent nos.1 and 2 will maintain Status-quo as of today in respect of the suit structure in all respects till the disposal of the Application. If the order on the said application is adverse to the Appellant,

the parties will continue to maintain Status-quo for a further period of eight weeks from the date of communication of the said order to the Appellant.

8. It is made clear that if the application for regularisation is not made within a period of four weeks from today, the Respondent nos. 1 and 2 will be free to take further action.

. C.C. expedited.

sd/-

JUDGE